

## **REMARKS**

Applicants respectfully request reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claims 12, 14, 22-24 and 26-30 have been amended. No claims have been canceled. No claims have been added. Thus, claims 12-14, 16-20, 22-24 and 26-30 are pending.

## **REJECTIONS UNDER 35 U.S.C. §101**

### **Claims 12-14, 16-20, 22-24 and 26-30**

These claims are rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter. Applicants traverse the above rejection for at least the following reasons.

Independent claim 12 is amended herein to recite in part (emphasis added):

“...**storing in a computer device sets of allocation data**..., wherein each of the sets of allocation data includes allocation settings...”

and to further recite:

“...**the computer device generating**, based on the allocation settings of the sets of allocation data, a list of one or more functions in the set of functions available to be selected for allocation...”

Applicants respectfully submit that amended claim 12 is tied to a particular machine or apparatus and/or transforms a particular article into a different state or thing. Therefore, amended claim 12 – and any claims depending therefrom – meets the requirements for statutory subject matter under 35 U.S.C. §101.

With regard to independent claim 22, the above rejection includes some discussion regarding the broadest reasonable interpretation of a claim drawn to a “computer readable medium”. However, such discussion is irrelevant to the statutory nature of independent claim 22, which is amended herein to more explicitly recite a “machine-readable **storage** medium **storing** a set of instructions” (emphasis added).

The statutory nature of claims to a “storage medium” is established, for example, in *In re Nuijten*, 500 F.3d 1346 (Fed. Cir. 2007).

The possibility that the specification might include some discussion of allegedly non-statutory subject matter does not change the fact that the pending claims to “storage medium” are therefore exclusive of other non-storage media which are considered non-statutory subject matter.

Accordingly, current independent claim 22 – and any claims depending therefrom – meets the requirements for statutory subject matter under 35 U.S.C. §101. Applicants request that any future assertion of the above rejection include an explicit citation to any basis in statute or in case law establishing that a “storage medium” includes a propagated signal or other non-statutory subject matter.

For at least the foregoing reasons, each of current independent claims 12 and 22 are directed to statutory subject matter, as are any claims depending therefrom. Therefore, Applicants respectfully request that the 35 U.S.C. §101 rejection of claims 12-14, 16-20, 22-24 and 26-30 be withdrawn.

#### **REJECTIONS UNDER 35 U.S.C. §112**

##### **Claims 14 and 24 – 35 U.S.C. §112, ¶1**

These claims are rejected under 35 U.S.C. §112, ¶1 for allegedly failing to meet the written description and enablement requirements. Applicants traverse the above rejection for at least the following reasons.

Applicants amend claims 14 and 24 herein to variously replace the phrase “disallowing” with “preventing”. The claim amendments are supported in the original disclosure at least by paragraph [0045] of the specification.

Applicants respectfully submit that amended claim 14 and 24 meet the written description and enablement requirements of 35 U.S.C. §112. Therefore, Applicants respectfully request that the 35 U.S.C. §112, ¶1 rejection of claims 14 and 24 be withdrawn.

**REJECTIONS UNDER 35 U.S.C. §102**

**Claims 12-14 and 22-24**

These claims are rejected under 35 U.S.C. §102(b) as allegedly being unpatentable over Baffes et al., US Publication No. 6,292,792 (hereinafter "*Baffes*"). For at least the following reasons, Applicants traverse the above rejection.

**Failure of the rejection to address each limitation of the claimed invention**

The requirements for rejecting a claim under 35 U.S.C. §102(b) are described in M.P.E.P. §2131, which states in a salient portion (emphasis added):

"A claim is anticipated only if **each and every element as set forth in the claim** is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

However, the above claim rejection fails to acknowledge that independent claim 12 and independent claim 22 each include limitations directed to allocation settings which each specify a respective ability to customize an allocation of a function to a role.

That is to say, the claim rejection is simply silent with respect to the existence of at least one claim limitation in independent claim 12 and independent claim 22.

Although it generally asserts that *Baffes* teaches allocation settings, the above claim rejection fails to allege that any supposed allocation setting of *Baffes* might teach – or, for the purposes of anticipation, might need to teach – an allocation setting **which specifies some ability to customize an allocation of some function to some role**.

The claims are amended herein to more explicitly recite features related to such allocation settings. The claim amendments are supported in the original disclosure at least by Fig. 9 and by paragraphs [0044]-[0046] of the specification. Regardless, in failing to even acknowledge that a particular type of allocation setting is variously recited in the claims, the claim rejection fails to address each and every element as set forth in the rejected claims.

Therefore, the claim rejection is improper for failing to meet the M.P.E.P. §2131 requirements for demonstrating anticipation. For at least the foregoing reasons,

Applicants request that the above rejection of claims 12-14 and 22-24 based on *Baffes* be withdrawn.

*Failure of Baffes to teach the variously claimed allocation settings*

Applicants respectfully submit that the above rejected claims are not anticipated by *Baffes*, based at least on the failure of the reference to disclose (emphasis added):

“...storing in a computer device sets of allocation data, ...wherein each of the sets of allocation data includes allocation settings which each correspond to a different respective one of an instructional design role and a content definition role,...**each of the allocation settings specifying a respective ability to customize an allocation of the function** which corresponds to the set of allocation data **to the role** which corresponds to the allocation setting;...”

Absent any clear explanation to the contrary in the Office Action, the claim rejection seemingly relies upon features or *Baffes* as allegedly anticipating certain claim limitations according to the following:

*Feature of Baffes*

concept editor (col. 21, lines 30-45)  
pedagogy editor (col. 23, lines 45-65)

*Allegedly anticipated limitation*

instructional design role  
content definition role

However, *Baffes* fails to provide any indication as to whether or how some set of allocation data might correspond to some function, the set of allocation data including a different respective allocation setting for each of the concept editor 16 and the pedagogy editor 20.

More particularly, *Baffes* fails to provide any indication as to whether or how any such allocation setting in *Baffes* might specify an ability to customize an allocation of the particular function to one of the concept editor 16 and the pedagogy editor 20 of *Baffes*.

Although the relied-upon passages of *Baffes* do discuss various functions – e.g. a modify concept function and a create concept function – there is no discussion in the reference as to how the functions might be allocated to either of concept editor 16 and pedagogy editor 20. Nor is there any discussion in *Baffes* as to whether or how any supposed allocation of such functions to either concept editor 16 or pedagogy editor 20 might be configurable.

By contrast, current independent claims 12 and 22 variously recite storing in a computer device sets of allocation data, wherein each of the sets of allocation data

includes allocation settings which each correspond to a different respective one of an instructional design role and a content definition role, **each of the allocation settings specifying a respective ability to customize an allocation of the function** which corresponds to the set of allocation data **to the role** which corresponds to the allocation setting. Even assuming *arguendo* that all other limitations are anticipated by *Baffes*, which Applicants do not agree, the reference nevertheless fails to either expressly or inherently disclose at least one limitation of Applicants' invention in as complete detail as set forth in the claims.

For at least the foregoing reasons, *Baffes* fails to anticipate each of independent claims 12 and 22, and any claims depending therefrom. Therefore, Applicants again request that the above 35 U.S.C. §102(b) rejection of claims 12-14 and 22-24 based on *Baffes* be withdrawn.

#### **REJECTIONS UNDER 35 U.S.C. §103**

##### **Claims 16-20 and 26-30**

These claims are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Baffes* in view of Hekmatpour, US Patent No. 5,644,686 (hereinafter "*Hekmatpour*"). For at least the following reasons, Applicants traverse the above rejection.

As demonstrated in the discussion above, there is at least one limitation in each of current independent claims 12 and 22 which is not taught or suggested by *Baffes*. *Hekmatpour*, which is generally related to consistent windowing structures for displaying information (see, e.g. *Hekmatpour* FIG. 15 and col. 22, lines 10-30), does not cure the failure of *Baffes* to teach allocation settings which each correspond to a different respective one of an instructional design role and a content definition role, each of the allocation settings specifying a respective ability to customize an allocation of a function which corresponds to a set of allocation data to the role which corresponds to the allocation setting.

Accordingly, each of independent claims 12 and 22 is non-obvious in light of *Baffes* and *Hekmatpour*, as are any claims depending therefrom. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §103(a) rejection of claims 16-20 and 26-30 based on *Baffes* and *Hekmatpour* be withdrawn.

**CONCLUSION**

For at least the foregoing reasons, Applicants submit that all pending objections and/or rejections have been overcome. Therefore, all pending claims are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**

Date: June 18, 2010

/Dermot G. Miller/  
Dermot G. Miller  
Attorney for Applicants  
Reg. No. 58,309

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(503) 439-8778